

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT KNOXVILLE

NOVEMBER 1996 SESSION

**FILED**  
  
**January 28, 1997**  
  
**Cecil Crowson, Jr.**  
Appellate Court Clerk

STATE OF TENNESSEE, )  
)  
                          APPELLEE, )  
)  
)  
)  
v. )  
)  
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)  
MIKE D. DAVIDSON, )  
)  
                          APPELLANT. )

No. 03-C-01-9601-CC-00038  
  
Sullivan County  
  
Frank L. Slaughter, Judge  
  
Violation of Habitual Traffic Offender Order

FOR THE APPELLANT:

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OPINION FILED: \_\_\_\_\_

AFFIRMED

Joe B. Jones, Presiding Judge

# OPINION

The sole issue presented for review is whether the evidence contained in the record is insufficient, as a matter of law, to support a finding by a rational trier of fact that the appellant was guilty of violating a habitual traffic offender order beyond a reasonable doubt. After a thorough review of the record, the briefs submitted by the parties, and the authorities which govern this issue, it is the opinion of the Court that the judgment of the trial court should be affirmed.

The appellant, Mike D. Davidson, was found to be a habitual traffic offender pursuant to an order entered on July 16, 1993. The order prohibited the appellant from operating a motor vehicle for three years.

On March 12, 1995, the appellant and his girlfriend had a donnybrook. As a result, there was extensive damage to the residence and its contents. Later, the girlfriend returned to the residence and completely destroyed the back window of the appellant's motor vehicle. The appellant called the Kingsport Police Department and reported someone was vandalizing his residence. Officer David Quillen responded to the appellant's complaint.

When Officer Quillen arrived at the appellant's residence, he asked the appellant for his driver's license to determine his identity. The appellant advised Officer Quillen he had a California license, but he did not have the license with him. He provided the officer with the license number. The appellant showed Officer Quillen the damage to the vehicle, and he took the officer inside to view the damage to the interior of the residence.

Once the investigation was completed at the appellant's residence, Officer Quillen drove a short distance from the appellant's residence and parked his vehicle. He then began making notes concerning the information he received from the appellant, and where he could locate the appellant's girlfriend. A few minutes later, he saw the white Pontiac Firebird he had viewed at the appellant's residence. The appellant was driving the vehicle. He was the only occupant of the vehicle. Officer Quillen assumed the appellant was en route to the area where the girlfriend could be located. He began following the appellant.

During the course of events, Officer Quillen provided the dispatcher with the

appellant's name, and he asked the dispatcher to make a routine Tennessee driver's license check. The dispatcher could not comply with the request because the computer had malfunctioned. The appellant turned short of Officer Quillen's destination. Officer Quillen continued to his destination.

The dispatcher subsequently advised Officer Quillen the appellant's driver's license had been revoked after being found to be a habitual motor vehicle offender. The officer immediately sought the appellant. However, he could not find him. The next morning an arrest warrant was issued for the appellant's arrest. He was arrested a few days later.

The appellant and three witnesses testified in support of his defense. The witnesses testified the appellant did not drive a motor vehicle after being declared a habitual traffic offender. Either the girlfriend's son or the appellant's father provided him with transportation. On the morning in question, the witnesses testified the girlfriend's son was driving the vehicle when Officer Quillen saw it and began following the vehicle.

When an accused challenges the sufficiency of the convicting evidence, this Court must review the record to determine if the evidence adduced at trial is sufficient "to support the finding by the trier of fact of guilt beyond a reasonable doubt." Tenn. R. App. P. 13(e). This rule is applicable to findings of guilt based upon direct evidence, circumstantial evidence, or a combination of direct and circumstantial evidence. State v. Dykes, 803 S.W.2d 250, 253 (Tenn. Crim. App.), per. app. denied (Tenn. 1990).

In determining the sufficiency of the convicting evidence, this Court does not reweigh or reevaluate the evidence. State v. Matthews, 805 S.W.2d 776, 779 (Tenn. Crim. App.), per. app. denied (Tenn. 1990). Nor may this Court substitute its inferences for those drawn by the trier of fact from circumstantial evidence. Liakas v. State, 199 Tenn. 298, 305, 286 S.W.2d 856, 859, cert. denied, 352 U.S. 845, 77 S.Ct. 39, 1 L.Ed.2d 49 (1956). To the contrary, this Court is required to afford the State of Tennessee the strongest legitimate view of the evidence contained in the record as well as all reasonable and legitimate inferences which may be drawn from the evidence. State v. Cabbage, 571 S.W.2d 832, 835 (Tenn. 1978).

Questions concerning the credibility of the witnesses, the weight and value to be given the evidence, as well as all factual issues raised by the evidence are resolved by the

trier of fact, not this Court. Cabbage, 571 S.W.2d at 835. In State v. Grace, 493 S.W.2d 474, 476 (Tenn. 1973), our Supreme Court said: "A guilty verdict by the jury, approved by the trial judge, accredits the testimony of the witnesses for the State and resolves all conflicts in favor of the theory of the State."

Since a verdict of guilt removes the presumption of innocence and replaces it with a presumption of guilt, the accused, as the appellant, has the burden in this Court of illustrating why the evidence is insufficient to support the verdicts returned by the trier of fact. State v. Tuggle, 639 S.W.2d 913, 914 (Tenn. 1982). This Court will not disturb a verdict of guilt due to the sufficiency of the evidence unless the facts contained in the record are insufficient, as a matter of law, for a rational trier of fact to find that the accused is guilty beyond a reasonable doubt. Tuggle, 639 S.W.2d at 914.

The only contested issue the jury was required to resolve was the credibility of the witnesses. It is apparent from the verdict returned by the jury the testimony of Officer Quillen was accredited, and the jury rejected, or did not believe, the testimony given by the appellant and the girlfriend's son. This was within the prerogative of the jury.

The evidence is clearly sufficient to support a finding by a rational trier of fact that the appellant was guilty of operating a motor vehicle after being declared a habitual motor vehicle offender beyond a reasonable doubt. Tenn. R. App. P. 13(e).

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JOE B. JONES, PRESIDING JUDGE

CONCUR:

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PAUL G. SUMMERS, JUDGE

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JOHN K. BYERS, SENIOR JUDGE